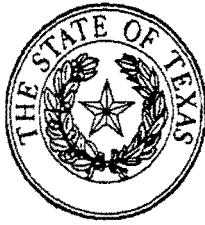


TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

granting the application of Waste Control Specialists, LLC
for Radioactive Material License No. R04100; TCEQ
Docket No. 2005-1994-RAW

On January 14, 2009, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing filed by Rose Gardner, Cruz Montañez, Nuclear Information and Resource Service, and Sierra Club concerning the application by Waste Control Specialists, LLC (Applicant) for Radioactive Material License No. R04100 to authorize the disposal of low-level radioactive waste at a site in Andrews County, Texas. The requests for hearing were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code Chapter 55. The Commission also considered the responses to the hearing requests filed by the Executive Director, the Office of Public Interest Counsel, and the Applicant; the reply filed by Sierra Club; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission denied the hearing requests of Rose Gardner, Cruz Montañez, Nuclear Information and Resource Service, and Sierra Club. In addition, under Title 30 Texas Administrative Code § 336.207(4), an application for a radioactive material license authorizing disposal of low-level radioactive waste may not be approved until the applicant has acquired the title to and any interest in land and buildings,

including the surface and mineral estates, on which the facility or facilities are to be located by either having acquired:

- (A) an undivided ownership of the buildings, surface estate, and mineral estate in fee simple through purchase or completed condemnation; or
- (B) an undivided ownership of the buildings and surface estate, along with an exemption, granted by the commission in accordance with federal law for use of a surface use agreement, in lieu of acquiring fee simple title to the mineral estate.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. The hearing requests of Rose Gardner, Cruz Montañez, Nuclear Information and Resource Service, and Sierra Club are hereby DENIED;
2. The application by Waste Control Specialists, LLC for Radioactive Material License No. R04100 is granted upon a demonstration by Waste Control Specialists, LLC that the Applicant has acquired free and clear title to and all interests in land and buildings, including the surface and mineral estates, of the proposed disposal sites, as defined in Radioactive Material License No. R04100, by either having acquired:
 - (A) an undivided ownership of the buildings, surface estate, and mineral estate in fee simple through purchase or completed condemnation; or
 - (B) an undivided ownership of the buildings and surface estate, along with an exemption, granted by the Commission in accordance with federal law for use of a surface use agreement, in lieu of acquiring fee simple title to the mineral estate;

3. The attached Radioactive Material License No. R04100 may not be issued, signed, or granted until the demonstration required above has been provided to the Executive Director; and
4. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue date: **JAN 20 2009**

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Buddy Garcia
Buddy Garcia, Chairman